

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

MANDRELLA C.)	
SHEPHERD-SALGADO,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION NO.
)	1:11-cv-00427-B
TYNDALL FEDERAL CREDIT UNION,)	
USAA FSB, ARIZONA BANK,)	ORAL ARGUMENT
AMERICREDIT FINANCIAL)	REQUESTED
SERVICES, INC., SANTANDER)	
CONSUMER USA, INC., CHASE AUTO)	
FINANCE CORP., CAPITAL ONE AUTO)	
FINANCE, INC., and COMPASS BANK,)	
)	
Defendants.)	

DEFENDANT CAPITAL ONE AUTO FINANCE'S MOTION TO DISMISS

Defendant Capital One Auto Finance, a division of Capital One, N.A. (COAF), identified as Capital One Auto Finance, Inc. in the Complaint, moves this Court pursuant to Federal Rule of Civil Procedure 12(b)(6) to dismiss Plaintiff Mandrella Shepherd-Salgado's Complaint, stating as follows:

1. The Complaint fails to comply with the minimum pleading requirements of this Court. As such, it should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6).

2. Plaintiff's Computer Fraud claim fails because she has not experienced any recoverable damages and, alternatively, due to her inability to prevail on her Fair Credit and Reporting Act claim.

3. In further support of this Motion, COAF relies on its Memorandum of Law in Support of Motion to Dismiss, which is being filed contemporaneously herewith, and is adopted and incorporated the same as if fully set forth herein.

WHEREFORE, Defendant COAF respectfully requests that this Court dismiss this action.

Dated August 24, 2011

Respectfully Submitted,

/s/ Joshua H. Threadcraft

Joshua H. Threadcraft
Edward D. Cotter

Attorneys for Defendant
CAPITAL ONE AUTO FINANCE

OF COUNSEL:

BURR & FORMAN LLP
420 North 20th Street
Suite 3400
Birmingham, AL 35203
Telephone: (205) 251-3000
Facsimile: (204) 458-5110
jthreadc@burr.com
ecotter@burr.com

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document by Notice of Electronic Filing, or, if the party served does not participate in Notice of Electronic Filing, by U.S. First Class Mail, hand delivery, fax or email on this the 24th day of August, 2011:

Earl P. Underwood, Jr.
Underwood & Riemer, P.C.
21 South Section Street
Fairhope, Alabama 36532
Telephone: (251) 990-5558
Facsimile: (251) 990-0626
epunderwood@alalaw.com

R. Frank Springfield
Zachary D. Miller
BURR & FORMAN LLP
420 North 20th Street
Suite 3400
Birmingham, AL 35203
Telephone: (205) 251-3000
Facsimile: (204) 458-5110
jthreadc@burr.com
ecotter@burr.com

/s/ Edward D. Cotter

OF COUNSEL